

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 28, 1860.—Ordered to be printed.

Mr. TEN EYCK made the following

REPORT.

[To accompany Bill S. 95.]

The Committee on Revolutionary Claims, to whom was referred Senate bill No. 95, being a bill for the relief of Elizabeth Montgomery, heir of Hugh Montgomery, having had the same under consideration, and concurring in the views of this committee, at last session of the 34th Congress, as explained in their report of that session, adopt that report as their own, at the present session; and they accordingly report the bill back to the Senate, without amendment, and recommend its passage.

The report above referred to, is as follows:

IN THE SENATE OF THE UNITED STATES, January 22, 1857.

The Committee on Revolutionary Claims, to whom was referred the petition of Elizabeth Montgomery, daughter of Captain Hugh Montgomery, praying relief, beg leave to report:

The memorial of the petitioner, which is very circumstantial in substance, presents these facts: She is the daughter of Captain Hugh Montgomery, formerly of Wilmington, in the State of Delaware, and employed as captain of the brig Nancy, of that port, belonging to himself and others. That in the latter part of the year 1775 the said brig, chartered by Robert Morris, then a member of Congress, was despatched to the West Indies with a cargo of flour to be sold, and the proceeds returned to the United States in gunpowder and munitions of war. The cargo was sold at Porto Rico, and the Nancy then proceeded to St. Croix, where she was privately loaded with her return cargo, consisting of 460 barrels of gunpowder, six long four-pounders, sundry chests of small-arms, and other munitions of war, and with sundry articles of merchandise belonging to the said Montgomery. After the reception of his cargo, by means of the cannon, and some swivels and other arms, Captain Montgomery converted his ship into a vessel of war, and sailed for the Delaware, in order that he might deliver his cargo at Philadelphia, according to his directions.

When he approached the Delaware capes, he was intercepted by two British ships-of-war. He succeeded in beating off the boats sent to capture him; but finding it impossible to escape capture, he ran his ship into shoal water, and commenced removing the powder and munitions of war to the shore, and securing them from capture, leaving the private property to its fate. He kept off the enemy's boats whilst he landed 244 barrels of the powder, the cannon, small-arms, and other munitions of war, with the aid of Captain Weeks, who commanded some American vessels of war within the Capes. When he had so far succeeded in saving the cargo, one of the enemy's vessels approached within three hundred yards, cast anchor, and opened a destructive fire, whilst several boats filled with men approached for the purpose of boarding the *Nancy*. Finding it impossible to save more of the powder and the private property, he left the vessel, having laid a train and a match communicating with the powder, preferring to destroy both his vessel and the rest of her cargo, rather than it should fall into the hands of the enemy. The boats' crews had scarcely taken possession of the vessel, when she was blown up, with all on board, and, with the remains of her cargo, was destroyed. That part of the cargo which had been saved was transported to Philadelphia, and safely delivered to the agents of the government. Subsequently to this, Captain Montgomery went to sea in a private armed ship, was captured by a British cruiser, imprisoned for a long time, and treated with great harshness on account of the destruction of so many British sailors, by blowing up his vessel, as before stated. During his long imprisonment his mind became disordered; and during his voyage homeward, after his relief, he leaped overboard in a fit of insanity, and was drowned; leaving a widow, who has been long dead, and the petitioner, his only child, then a small girl.

The petitioner prays that Congress should make her some compensation for the losses of her father, sustained in the destruction of his vessel, as before stated, and for his patriotic conduct in saving the public property, then so much needed, to the neglect of his own, which he might have saved, instead of that which belonged to the public.

A claim is set up for the value of this private property, shipped on board the *Nancy* on his own account. But of this no satisfactory evidence has been given, and the committee have been unable to form any estimate of its value. As to the other part of the claim, the main facts are fully proved by an affidavit of Captain Mendenhall, who was one of the crew of the *Nancy*, and cognizant of all the facts of the voyage, and the safe landing of the greater part of the munitions of war. The blowing up of the vessel and the saving of the gunpowder are stated in an original letter, filed with the evidence, from George Reed, one of the signers of the Declaration of Independence, to his wife, dated the 6th of July, 1776, a few days after the occurrence. And on the whole, the committee are of opinion that the facts hereinbefore set forth are satisfactorily proved.

If, as is alleged, the vessel was chartered for the purpose set forth, it is presumed no doubt could exist that the government ought to pay; the destruction being beneficial to it, and inevitable, under the cir-

cumstances, to prevent the vessel and her cargo from falling into the hands of the enemy. Many claims of this kind have been paid.

The great difficulty in allowing this claim is its antiquity; but in this case the delay is satisfactorily accounted for.

On a review of the whole case, the committee have come to the conclusion that the petitioner ought to be liberally remunerated, to the extent of any loss sustained in the destruction of the vessel by her father. But after such a length of time no evidence could be furnished of the value of the vessel. Any estimate would be conjectural; but as the claim is a just one, they have come to the conclusion to give her \$5,000, as a full and final satisfaction of her claim, and report a bill for that purpose.

